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Attorneys for Defendants
CARMAX AUTO SUPERSTORES WEST
COAST, INC. and CARMAX AUTO
SUPERSTORES CALIFORNIA, LLC

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

DEREK MCELHANNON, ALEENA IQBAL,
CHRISTOPHER SYHARATH, RUBEN
SANTIAGO, and EMIL MILISCI, each
individually, and on behalf of all others
similarly situated,

Plaintiffs,

v.

CARMAX AUTO SUPERSTORES WEST
COAST, INC., a Virginia corporation;
CARMAX AUTO SUPERSTORES
CALIFORNIA, LLC, a Virginia limited
liability company; and DOES 1-50, inclusive,

Defendants.

Case No. 3:19-cv-00586-EDL

**DECLARATION OF JENNIFER L. KATZ IN
SUPPORT OF DEFENDANTS' MOTION TO
COMPEL INDIVIDUAL ARBITRATION,
DISMISS CLASS CLAIMS, AND STAY
PAGA CLAIM PURSUANT TO THE
FEDERAL ARBITRATION ACT (9 U.S.C. §
3), OR, IN THE ALTERNATIVE, TO
DISMISS PURSUANT TO FED. R. CIV. P.
12(b)(1) AND 12(b)(6)**

Date: April 16, 2019
Time: 9:00 a.m.
Place: Courtroom E

Complaint Filed: November 21, 2018
Removal Date: February 1, 2019
Trial Date: None

Judge: Hon. Elizabeth D. Laporte

1 I, JENNIFER L. KATZ, declare as follows:

2 1. I am an attorney at law licensed to practice before the courts of the State of
3 California. I am an associate with the firm of Ogletree, Deakins, Nash, Smoak & Stewart, P.C.,
4 counsel for defendants CarMax Auto Superstores California, LLC and CarMax Auto Superstores
5 West Coast, Inc. (together, "CarMax"). I have personal knowledge of the matters contained herein.
6 If called, I would and could testify competently thereto.

7 2. Plaintiffs Derek McElhannon ("McElhannon"), Aleena Iqbal ("Iqbal"), Christopher
8 Syharath ("Syharath"), Ruben Santiago ("Santiago"), Emil Milisci ("Milisci"), and Michael Lantis
9 ("Lantis") (collectively, "Plaintiffs") each entered into an arbitration agreement requiring that
10 claims arising out of their employment with CarMax be resolved through binding arbitration. On
11 or about January 9, 2019, I became aware that CarMax had been served with a copy of the Class
12 Action Complaint that plaintiffs McElhannon, Iqbal, Syharath, Santiago, and Milisci had filed in
13 the Superior Court of California for Alameda County.

14 3. On February 6, 2019, I sent a letter, via email and mail, to the attorneys representing
15 Plaintiffs in this matter, informing them that plaintiffs McElhannon, Iqbal, Syharath, Santiago, and
16 Milisci had entered into binding arbitration agreements with CarMax and inquired whether they
17 would agree to submit their claims to arbitration on an individualized basis and dismiss their class
18 claims. I attached to my letter copies of the agreements and the applicable arbitration rules, the
19 2014 Dispute Resolution Rules and Procedures ("DRRP"). In response to my letter, Jacob
20 Whitehead, one of the attorneys for Plaintiffs informed us that he would review the materials and
21 get back to us; he also informed us that they had filed a First Amended Complaint on January 31,
22 2019, though it had not yet been served on CarMax. Because the First Amended Complaint added
23 Lantis as an additional named plaintiff, I sent Plaintiffs' counsel a copy of Lantis' arbitration
24 agreement on February 26, 2019.

25 4. I had two phone conversations with Plaintiffs' counsel, first on February 11, 2019
26 and then again on March 1, 2019, and exchanged emails, about whether they would agree to
27 stipulate to submit Plaintiffs' individual claims to arbitration, dismiss their class claims, and stay
28 the derivative claim for civil penalties under the Private Attorney General Act ("PAGA").

1 Although Plaintiffs' counsel indicated that they may be willing to submit Plaintiffs' claims to
2 arbitration, Plaintiffs' counsel would not give me a firm answer about whether they would agree to
3 dismiss the class claims and proceed to arbitration on an individualized basis, would not agree to
4 sign the stipulation I proposed, and explicitly refused to stay the derivative PAGA claim.

5
6 I declare under penalty of perjury under the laws of the State of California that the
7 foregoing is true and correct.

8 Executed on this 6th day of March, 2019, in Los Angeles, California.

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11 JENNIFER L. KATZ
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